

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

Matthew A. Smith,

Plaintiff,

vs.

HSS,

Defendant.

Civil No.: 1:20-cv-00021

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

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[¶1] THIS MATTER comes before the Court on a Report and Recommendation from Magistrate Judge Clare R. Hochhalter. Doc. No. 6. The Plaintiff, Matthew A. Smith (“Smith”), initiated this action on February 11, 2020, by filing a Motion for Leave to Proceed *in forma pauperis*. Doc. No. 1. The Motion for Leave was granted on February 12, 2020, and the Complaint was filed the same day. Doc. Nos. 2, 3.

[¶2] After screening the Complaint as required by 28 U.S.C. § 1915A, Magistrate Judge Hochhalter issued a Report and Recommendation, in which he recommended that Smith’s Complaint be dismissed without prejudice on the ground that the Court lacks personal jurisdiction. See Doc. No. 6. The parties were given until March 18, 2020, to file any objections. Doc. No. 6, at p.6. On March 20, 2020, Smith filed a “Motion for Stay,” wherein he requested a stay of the proceedings for 120 days in order to get his finances in order, retain counsel, and put his case together. Doc. No. 7. Smith failed to address the substance of the Report and Recommendation or indicate any objection to the same in his Motion to Stay. Id. On March 23, 2020, Magistrate Judge

Hochhalter denied Smith's Motion for Stay, noting that Smith's request for a stay was unreasonable and the Court's lack of personal jurisdiction is "not reasonably debatable." See Doc. No. 8.

[¶3] The Court has carefully reviewed the Report and Recommendation, and the entire record, and finds it to be persuasive. Accordingly, the Court **ADOPTS** the Report and Recommendation in its entirety and **ORDERS** as follows:

1. The Court **ORDERS** that the Complaint be **DISMISSED WITHOUT PREJUDICE**.
2. The Court further **FINDS** that any appeal would be frivolous, could not be taken in good faith, and may not be taken *in forma pauperis*.

[¶4] **IT IS SO ORDERED.**

Dated April 8, 2020.

A handwritten signature in black ink, appearing to read 'D. M. Traynor', is written over a horizontal line.

Daniel M. Traynor, Judge  
United States District Court